

### **REMARKS/ARGUMENTS**

Claims 1-11 were pending in the present application before the preliminary amendment as set forth above. By this amendment, claims 7 and 11 have been amended to correct typos. No new matter is added.

In the October 5, 2010 Office Action, the Examiner divided the claimed voltage sensitive dyes in six (6) species: ANNINE-4 (formula (I) with  $n=1$ ), ANNINE-5 (formula (II) with  $n=1$ ), ANNINE-6 (formula (I) with  $n=2$ ), ANNINE-7 (formula (II) with  $n=2$ ), ANNINE-8 (formula (I) with  $n=3$ ), and ANNINE-9 (formula (II) with  $n=3$ ). Applicant was required to elect a single species for prosecution. The Examiner also indicated that claims 1-6, 9 and 10 are generic claims.

Applicants appreciate very much the Examiner's preliminary review of the instant application.

In response, as set forth above, without acquiescing to the statements made therein and to facilitate the prosecution of the current application, Applicants hereby elect *with traverse* species ANNINE-6 of claims 7, 8 and 11, along with the generic claims of claims 1-6, 9 and 10, for prosecution of the application.

Applicant further respectfully requests that the other five (5) species: ANNINE-4 (formula (I) with  $n=1$ ), ANNINE-5 (formula (II) with  $n=1$ ), ANNINE-7 (formula (II) with  $n=2$ ), ANNINE-8 (formula (I) with  $n=3$ ), and ANNINE-9 (formula (II) with  $n=3$ ) of claims 7, 8 and 11 be examined together with the species ANNINE-6 of claims 7, 8 and 11 and the generic claims of claims 1-6, 9 and 10 at least for the following reasons:

As disclosed in claims 7 and 11, all the (6) species: ANNINE-4 (formula (I) with  $n=1$ ), ANNINE-5 (formula (II) with  $n=1$ ), ANNINE-6 (formula (I) with  $n=2$ ), ANNINE-7 (formula (II) with  $n=2$ ), ANNINE-8 (formula (I) with  $n=3$ ), and ANNINE-9 (formula (II) with  $n=3$ ) recited in claim 8 have common or similar structure(s). Therefore, applicant respectfully submits that all the species: ANNINE-4 (formula (I) with  $n=1$ ), ANNINE-5 (formula (II) with  $n=1$ ), ANNINE-6 (formula (I) with  $n=2$ ), ANNINE-7 (formula (II) with  $n=2$ ), ANNINE-8 (formula (I) with  $n=3$ ), and ANNINE-9 (formula (II) with  $n=3$ ) are *neither mutually exclusive nor patentably distinct from each other*. Accordingly, the species are not distinct and a requirement for restriction must not be made or maintained. (See, MPEP 806.04(f) and 806.04(h).)

Applicant believes that searching the species: ANNINE-4 (formula (I) with  $n=1$ ), ANNINE-5 (formula (II) with  $n=1$ ), ANNINE-7 (formula (II) with  $n=2$ ), ANNINE-8 (formula (I) with  $n=3$ ), and ANNINE-9 (formula (II) with  $n=3$ ), along with the elected species ANNINE-6 and the generic claims of claims 1-6, 9 and 10, does not impose a serious burden on the Office. Therefore, applicant respectfully requests that the species: ANNINE-4 (formula (I) with  $n=1$ ), ANNINE-5 (formula (II) with  $n=1$ ), ANNINE-7 (formula (II) with  $n=2$ ), ANNINE-8 (formula (I) with  $n=3$ ), and ANNINE-9 (formula (II) with  $n=3$ ) of claims 7, 8 and 11 be examined together with the elected species ANNINE-6 of claims 7, 8 and 11 and the generic claims of claims 1-6, 9 and 10.

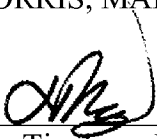
Examination on the merits is therefore respectfully requested and this Application is believed to be in condition for allowance, and such action is earnestly solicited.

If the Examiner has any questions concerning this Response or the Application in general, the Examiner is requested to contact the undersigned at 404-495-3678.

Respectfully submitted,

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